



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

Application no. 49072/11
Viktor Leonidovich GORELOV
against Russia
lodged on 7 June 2011

STATEMENT OF FACTS

The applicant, Mr Viktor Leonidovich Gorelov, is a Russian national, who was born in 1965 and lived until his arrest in the village of Sushzavod, the Novosibirsk Region. He is serving his sentence in the town of Raisino, the Novosibirsk Region.

The facts of the case, as submitted by the applicant, may be summarised as follows.

Having been arrested in August 2007 on suspicion of aggravated robbery, the applicant was convicted on 28 January 2008 and sentenced to nine years and three months of imprisonment. By another judgment issued on 23 November 2011 the applicant was convicted of aggravated fraud and sentenced to another three years.

On 18 February 2011 a blood test revealed that the applicant had contracted HIV infection. Tests conducted on previous occasions did not show any signs of the infection.

The applicant lodged an action with the Berdsk Town Court, seeking compensation from the detention authorities for his having contracted the HIV infection.

On 16 June 2011 the Novosibirsk Regional Court, in the final instance, disallowed the action, having found that he had not complied with procedural requirements for lodging it. In particular, the applicant did not name a public official who could have been responsible for his having contracted the infection, he did not indicate his home address, he did not pay a court fee, and so on.

The applicant send a complaint to the Investigative Department of the Novosibirsk Region, asking to institute criminal proceedings against the personnel of the detention facilities. He argued that he had contracted the HIV infection through negligent actions of the prison medical staff.

On 5 July 2011 a deputy head of the Department readdressed the complaint to the Novosibirsk Regional prosecutor.

On 13 July 2011 the first deputy prosecutor of the Novosibirsk Region returned the applicant's complaint to the Investigative Department of the Novosibirsk Region, informing it that there were signs of a possible criminal offence and that a thorough inquiry into the matter should be conducted.

Ten days later the Investigative Department redirected the applicant's complaint to the head of the Novosibirsk Region police department asking to perform an inquiry into the circumstances of the applicant having contracted the infection.

No response followed.

COMPLAINTS

1. The applicant complained that he had been infected with HIV in detention. He further complained that he did not receive necessary medical treatment for his condition and that his health was rapidly deteriorating.

2. In addition, the applicant further complained that the proceedings leading to his conviction in 2011 had been unfair in that the courts had misinterpreted the facts and had not taken seriously his arguments in defence.

QUESTIONS TO THE PARTIES

1. The Government are invited to submit a copy of the applicant's medical record drawn up after his arrest in 2007 and its typed version.

2. The Government are invited to inform the Court of the applicant's current state of health, including details of the state of advancement of his HIV infection and the drugs being provided for it.

3. Having regard to the applicant's complaints that he was infected with HIV in custody, has the applicant's right to life, ensured by Article 2 of the Convention, been violated in the present case? In particular, do the Government bear responsibility under the Convention for the applicant's infection with HIV? Having regard to the procedural protection of the right to life, was the investigation in the present case by the domestic authorities in breach of Article 2 of the Convention?

4. Irrespective of the answer to question 3 above, have the Government met their obligation to ensure that that applicant's life, health and well-being are being adequately secured by, among other things, providing him with the requisite medical assistance (see *McGlinchey and Others v. the United Kingdom*, no. 50390/99, § 46, ECHR 2003-V), as required by Articles 2 and 3 of the Convention, in the present case.